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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

DIANA R.,

Petitioner,

v.

THE SUPERIOR COURT OF FRESNO
COUNTY,

Respondent;

FRESNO COUNTY DEPARTMENT OF
SOCIAL SERVICES,

Real Party in Interest.

F072777

(Super. Ct. No. 13CEJ300175)

OPINION

THE COURT*

ORIGINAL PROCEEDING; petition for extraordinary writ review. Kimberly J. Nystrom-Geist, Judge.

Diana R., in pro. per., for Petitioner.

No appearance for Respondent.

Daniel C. Cederborg, County Counsel, and Lisa R. Flores, Deputy County Counsel, for Real Party in Interest.

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* Before Gomes, Acting P.J., Detjen, J. and Peña, J.

Diana R. (mother), in propria persona, seeks extraordinary writ relief from the juvenile court's orders issued at a contested dispositional hearing denying her reunification services under Welfare and Institutions Code section 361.5, subdivision (b)(13)¹ and setting a section 366.26 hearing as to her six-, four- and two-year-old sons and her five-year-old daughter. Under section 361.5, subdivision (b)(13), the juvenile court may deny reunification services to a parent who has a "history of extensive, abusive, and chronic use of drugs or alcohol and has resisted prior court-ordered treatment" Mother contends she is not a drug addict or alcoholic and did not fail to protect her children.

We conclude mother failed to raise a claim of juvenile court error. We dismiss the petition as inadequate for our review.

PROCEDURAL AND FACTUAL SUMMARY

On September 1, 2015, the Fresno County Department of Social Services (department) took mother's four children, the subjects of this writ petition, into protective custody after they were found running in the street unsupervised near their apartment complex. The reporting party told a police officer that the six- and two-year-old children were completely naked. The officer noticed the children were dirty and had scrapes, cuts, and scabs on their faces and bed bug bites on their bodies. The second story apartment in which the family lived smelled strongly of urine, feces, rotten food and trash from the outside. On the inside it was filthy and unsanitary. The department placed the children in foster care.

Mother claimed she had gone to the welfare office that morning to reinstate her government assistance and she left the children in the care of her boyfriend, "Bear," whom she had known for a long time. She explained that she was not given her own mailbox and did not realize that she was no longer receiving welfare checks. In addition,

¹ All statutory references are to the Welfare and Institutions Code.

her landlord intended to evict her that day and she had nowhere to go, no money, no transportation and could not reach the welfare office by telephone.

The police officer informed mother that “Bear” was nowhere to be found when they arrived and asked her if she knew that he had been arrested the week before for stealing and had charges against him for possession and sale of drugs. She denied knowing that.

Mother also denied using drugs but admitted to drinking alcohol “occasionally.” She said she had an intake appointment at a substance abuse treatment facility in approximately three weeks.

The following day, the social worker spoke with the children’s father, Manuel. He and mother were married but legally separated. Manuel had mental health and substance abuse problems and had been living in a sober living home since the previous June.

As it turned out, the family had a significant child welfare history. In January 2010, mother gave birth prematurely to her daughter who was exposed to methamphetamine in utero. The department returned the baby to mother’s care on the condition she participate in voluntary family maintenance (VFM) services, including substance abuse treatment. Mother successfully reunified and the VFM case was closed in August 2010. In June 2013, the department removed the children after mother gave birth to her youngest son and he tested positive for methamphetamine. A social worker and law enforcement officer found the three older children dirty and living in filthy and unsanitary conditions. Mother participated in family reunification services which included substance abuse treatment and successfully reunified with the children. In December 2014, the juvenile court returned the children to mother and Manuel’s custody and terminated its dependency jurisdiction.

In September 2015, the juvenile court detained the children pursuant to a petition filed by the department, alleging under section 300, subdivision (b) that mother neglected

and failed to protect the children and that Manuel failed to protect the children from mother.

At the detention hearing, mother's attorney advised the court that the allegations in the petition were true, but were not the result of her alcohol abuse as alleged. Rather, he explained that her welfare checks for June, July, and August of 2015 were returned to the welfare office, leaving her without any money to provide for the children. The court explained to counsel that the time to litigate the allegations would be at the jurisdictional hearing, which the court set for October 2015. The court ordered supervised visits for mother and Manuel pending the next hearing.

On October 13, 2015, the juvenile court convened the jurisdictional hearing. Mother's attorney asked for a contested hearing on the grounds that the circumstances alleged in the petition were not the result of neglect. In addition, he requested an order for drug testing to prove mother was not using drugs. The court ordered the department to refer mother and father for drug testing and set a settlement conference in regard to jurisdiction and disposition for October 28.

The department filed its report for the hearing, recommending the juvenile court sustain the allegations in the petition and deny mother and Manuel reunification services under section 361.5, subdivision (b)(13) because they had a history of "extensive, abusive, and chronic use of drugs or alcohol" and resisted prior court-ordered treatment for the problem. With respect to mother, the department reported that she stated on multiple occasions subsequent to the children's removal that she was going to enter into a drug treatment program but did not. In addition, she said she was going to drug test but failed to do so. During a meeting with the social worker in September 2015 she admitted several recent relapses.

On October 28, 2015, mother appeared with her attorney who submitted the matter of jurisdiction but refuted that mother was an alcoholic or drug addict. Mother waived her right to a hearing. The juvenile court set a contested hearing on jurisdiction at the

request of Manuel's attorney and set a contested jurisdictional/dispositional hearing (combined hearing) for November 17.

Social worker Roxanne Lara testified at the combined hearing that she was called out to the family home several times from March 2015 to the end of July 2015 in response to reports of general neglect. She went to the family home in April and found the home to be "very, very filthy." She gave mother and Manuel time to clean the home to prevent having to remove the children. She was called out in May because Manuel was alleging that mother was poking the children with needles. The family went to the hospital and Manuel was involuntarily committed. At that time, mother admitted to using methamphetamine a couple of weeks before. Lara testified that mother went to a women's shelter and the department tried to help her obtain substance abuse treatment and housing. After 30 days in the shelter, mother and the children were provided an apartment with furniture. Lara's next contact with mother was at the end of July when Lara received a report the children were left outside and were dirty and running around. The apartment manager offered to help mother clean the apartment and Lara checked on the situation every week after that.

Lara further testified that mother received welfare income and social security income for her six-year-old son. In addition, the department identified a parent partner to serve as a liaison between mother and the department but mother "never had enough time" and did not return the parent partner's call. Mother also had an aunt who stated she would help mother with food and transportation. The aunt attended meetings with mother and was "there 100 percent." Lara also testified that mother had child care available to her.

Teresa Lazalde, family reunification social worker, testified that mother left the women's shelter after disclosing that she used drugs. Mother was then placed in an apartment through Project Access, which who paid the rent and electrical and gas bill for June, July, and August 2015. Mother disclosed to Lazalde that she began drinking

alcohol in March 2015 and used methamphetamine in late September. Mother tested positive for methamphetamine in October 2015.

Mother testified and denied having to leave the women's shelter because of drug use. The only complaint the staff at the shelter had was that the children were running around. She said she told Lara she was drinking but denied telling her that she used methamphetamine. Lara suggested she get treatment, which she did. She went three times a week.

Mother's attorney asked her if she was a drug addict. She said she considered herself "an addict because [she had] a history of it, but [did not] consider [herself] as a drug addict." She testified she was not taking drugs or drinking alcohol "anymore."

The juvenile court sustained the allegations in the petition, ordered the children removed from mother and Manuel's custody and denied both parents reunification services under section 361.5, subdivision (b)(13).

This petition ensued.

DISCUSSION

Inadequate Petition

The purpose of writ proceedings such as these is to facilitate review of a juvenile court's order setting a section 366.26 hearing to select and implement a permanent plan for a dependent child. (Cal. Rules of Court, rule 8.450(a).) A juvenile court's decision is presumed correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) It is up to a petitioner to raise specific issues and substantively address them. (§ 366.26, subd. (l)(1).) This court will not independently review the record for possible error. (*In re Sade C.* (1996) 13 Cal.4th 952, 994.)

Mother denies being addicted to drugs or alcohol and in essence attributes her inability to take care of the children to her lack of resources. She does not, however, explain how the juvenile court's order denying her reunification services was error. As a result, we must dismiss the petition as facially inadequate for review.

Even if for the sake of argument, we were to review the juvenile court's denial of services order, we would find no error. Under section 361.5, subdivision (b)(13), the juvenile court can deny reunification services to a parent who "has a history of extensive, abusive, and chronic use of drugs or alcohol and has resisted prior court-ordered treatment for this problem during a three-year period immediately prior to the filing of the petition that brought the child to the court's attention" Here, mother has an extensive history of methamphetamine use. Two of her children tested positive for the drug at birth. In addition, mother successfully completed substance abuse treatment as part of prior dependency proceedings yet continued to use methamphetamine. Her continued use after participation in treatment constitutes resistance to treatment.

DISPOSITION

The petition for extraordinary writ is dismissed. This opinion is immediately final forthwith as to this court.